

REMARKS:

Claims 1, 3-10 and 12-15 are pending and stand rejected.

Claim 1 was cancelled. Claims depending from claim 1 were amended to depend from claim 6.

Claim 6 was amended limit layer (E) to a polyester layer, and amend the density range of layer (B) to 0.863-0.902. The new upper limit is supported by Examples 3 and 4.

It is believed that no new matter has been added by this amendment.

35 U.S.C. §103(a)

Claims 1, 3-10 and 12-15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Robert et al (EP 1136536 – using US 6,528,587 as the translation). The Robert reference is 100 percent owned by Applicant, and includes common inventors. The Robert reference fails to teach or disclose that the dilutant polyolefin (B) having a density in the range of 0.863 and 0.902.

The Robert reference is similar to Applicant's invention – but uses a higher density layer (B) of 0.910 – 0.935 (Col. 1, lines 58 and 59; and Col. 4, lines 52-54). Applicants have found that a (B) layer of lower density provides better adhesion properties, as illustrated in Table 2 on page 16 of Applicant's Application. The compositions of the invention (diluted with metallocene PE – Ex 1-4) have a much higher initial peel strength in a three layer PET/tie/PE structure. The lowest peel strength of the composition of the invention being 11.6 N/15 mm, while the best of the comparative examples (same layer A but non-metallocene PE dilutants) is only 6.5 N/15mm – almost twice as good. A similar result is shown in a 5-layer composite PET/tie/EVOH/tie/PET.

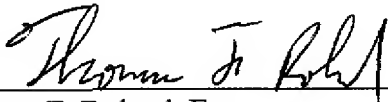
The Roberts reference fails to recognize the type of dilutant polyethylene (B), or adhesive strength increase on aging as result effective variables. Since only result effective variables can be optimized by routine experimentation (MPEP 2144.05), one of ordinary skill in the art would have no motivation to arrive at Applicant's claims based on the Robert reference and routine experimentation.

Even more surprising is that the compositions of the invention increased in adhesiveness significantly from $t=0$ to $t=8$ days, while the comparative examples either increased only slightly – and in most cases decreased significantly.

The Roberts reference teaches a (B) density of from 0.910 – 0.935, while Applicant's amended claim is to a (B) density of from 0.863 – 0.902. Thus the Roberts reference fails to teach or disclose all of Applicant's claim limitations, instead teaching away from Applicant's claims, as amended, and therefore fails to present a *prima facie* case of obviousness.

In view of the above, the Applicant believes that the reasons for rejection have been overcome, and the claims herein should be allowable to the Applicant. Accordingly, reconsideration and allowance are requested.

Respectfully submitted;



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